

UNITED STATES DISTRICT COURT
for the
District of New Mexico

FILED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

NOV 20 2015 ✓

MATTHEW J. DYKMAN
CLERK

15 mr 784

In the Matter of the Search of)
(Briefly describe the property to be searched)
or identify the person by name and address)
The property to be searched is a SAMSUNG, Model:)
SM-G360T1, FCC ID A3LSMG360T in the custody of)
the Bureau of Alcohol, Tobacco, & Firearms.)

Case No.

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that there is now concealed on the following person or property located in the Albuquerque, NM District of New Mexico (*identify the person or describe property to be searched and give its location*):

The property to be searched is a SAMSUNG, Model: SM-G360T1, FCC ID: A3LSMG360T in the custody of the Bureau of Alcohol, Tobacco, Firearms, and Explosives Albuquerque Field Office.

The person or property to be searched, described above, is believed to conceal (*identify the person or describe the property to be seized*): SAMSUNG, Model: SM-G360T1, FCC ID: A3LSMG360T is believed to conceal evidence of violations of Title 21 U.S.C 841(a)(1) (Narcotics possession/distribution), and Federal Firearms Laws.

The basis for the search under Fed. R. Crim. P. 41(c) is (*check one or more*):

- evidence of a crime;
- contraband, fruits of crime, or other items illegally possessed;
- property designed for use, intended for use, or used in committing a crime;
- a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of 21 U.S.C. § 841(a)(1), and the application is based on these facts: See Attached

Continued on the attached sheet.

Delayed notice of days (give exact ending date if more than 30 days:) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

Applicant's signature

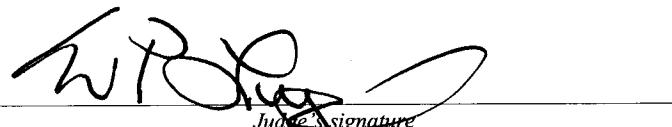
Erik Haanes, Special Agent ATF

Printed name and title

Sworn to before me and signed in my presence.

Date: 11/20/15

City and state: Albuquerque, NM


WILLIAM P. LYNCH
U.S. MAGISTRATE JUDGE
Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF NEW MEXICO

IN THE MATTER OF THE SEARCH OF
SAMSUNG, MODEL: SM-G360T1, FCC ID:
A3LSMG360T, LOCATED AT THE
BUREAU OF ALCOHOL, TOBACCO,
FIREARMS AND EXPLOSIVES,
ALBUQUERQUE FIELD OFFICE.

Case No. _____

**AFFIDAVIT IN SUPPORT OF AN
APPLICATION UNDER RULE 41 FOR A
WARRANT TO SEARCH AND SEIZE**

I, Erik Haanes being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a search warrant authorizing the examination of property—an electronic device—which is currently in law enforcement possession, and the extraction from that property of electronically stored information described in Attachment B.

2. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). Beginning in September of 2014, I attended a 26 week ATF academy in Glynco, Georgia that certified me as an ATF Special Agent.

3. As a Special Agent with the ATF and my prior experience as a law enforcement officer, I have conducted physical surveillance, interviewed sources of information and defendants, served search warrants and arrest warrants, investigated firearms and drug trafficking, and assisted on undercover firearms and narcotic investigations. Further, I have

testified in judicial proceedings in federal court involving prosecutions relating to violations of federal firearms laws.

4. I am an investigative, or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510 (7), in that I am an officer of the United States who is empowered by law to conduct investigations and make arrests for the offenses enumerated in Title 18 and 26, United States Code.

5. This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

IDENTIFICATION OF THE DEVICE TO BE EXAMINED

6. The property to be searched is a SAMSUNG, MODEL: SM-G360T1, FCC ID: A3LSMG360T, hereinafter referred to as the "DEVICE." The DEVICE is currently in the custody of the Bureau of Alcohol, Tobacco, Firearms, and Explosives Albuquerque Field Office.

7. The applied-for warrant would authorize the forensic examination of the DEVICE to include the network carrier SIM card, for the purpose of identifying electronically stored data particularly described in Attachment B.

PROBABLE CAUSE

8. On November 2, 2015, an ATF Confidential Informant (CI) advised your affiant that Desmick SHARBER was prepared to sell two (2) ounces of crack cocaine to an undercover

ATF agent (who previously purchased two (2) ounces of crack cocaine from SHARBER and his supplier, Angelo BURDEX, while acting in an undercover capacity on October 2, 2015).

9. On November 2, 2015, an ATF CI picked up SHARBER from his motel. SHARBER called Burdex on his DEVICE and Burdex told SHARBER told to meet him at a convenience store to pick up the crack cocaine. Agents followed the CI and SHARBER to a convenience store parking lot, located in Albuquerque, NM, and conducted surveillance on SHARBER. After several minutes of surveillance, agents observed SHARBER meet up with BURDEX. The CI notified your Affiant that SHARBER had picked up crack cocaine and the CI and SHARBER departed the convenience store parking lot.

10. A traffic stop was conducted on the vehicle occupied by the CI and SHARBER. SHARBER was called from the vehicle and placed under arrest for an outstanding arrest warrant (This warrant was previously obtained based on the first controlled purchase of crack cocaine with SHARBER that occurred on October 2, 2015). While SHARBER was complying with officer's commands and exiting the vehicle with his hands in the air, SHARBER dropped the DEVICE from his hands which fell to the ground.

11. During a search incident to arrest, SHARBER was found to be in possession of approximately two (2) ounces of crack cocaine that was located near his buttocks area, and a loaded Glock, .45 caliber, semiautomatic pistol which SHARBER had placed underneath the front passenger seat while being traffic stopped. Additionally, the crack cocaine was later field tested and tested positive for the presence of cocaine base and had a gross weight of approximately 58 grams. (It should also be noted SHARBER is a multi-convicted felon out of the State of Georgia.)

12. Based on your Affiant's training and experience as a law enforcement officer, your Affiant is aware that individuals engaging in criminal activity, associated with both firearms and narcotics, regularly store and maintain information associated with such illegal activity on their personal cell phones. Further, your Affiant knows that individuals conspire to commit crime and conceal criminal activity through cell phone communications.

13. The DEVICE is currently in storage at the Bureau of Alcohol, Tobacco, Firearms, and Explosives Albuquerque Field Office. The DEVICE has been stored in a manner in which its contents are, to the extent material to this investigation, in substantially the same state as they were when recovered from SHARBER on November 2, 2015.

TECHNICAL TERMS

14. Based on my training and experience, I use the following technical terms to convey the following meanings:

- a. Wireless telephone: A wireless telephone (or mobile telephone, or cellular telephone) is a handheld wireless device used for voice and data communication through radio signals. These telephones send signals through networks of transmitter/receivers, enabling communication with other wireless telephones or traditional "land line" telephones. A wireless telephone usually contains a "call log," which records the telephone number, date, and time of calls made to and from the phone. In addition to enabling voice communications, wireless telephones offer a broad range of capabilities. These capabilities include: storing names and phone numbers in electronic "address books;" sending, receiving, and

storing text messages and e-mail; taking, sending, receiving, and storing still photographs and moving video; storing and playing back audio files; storing dates, appointments, and other information on personal calendars; and accessing and downloading information from the Internet. Wireless telephones may also include global positioning system (“GPS”) technology for determining the location of the device.

- b. Digital camera: A digital camera is a camera that records pictures as digital picture files, rather than by using photographic film. Digital cameras use a variety of fixed and removable storage media to store their recorded images. Images can usually be retrieved by connecting the camera to a computer or by connecting the removable storage medium to a separate reader. Removable storage media include various types of flash memory cards or miniature hard drives. Most digital cameras also include a screen for viewing the stored images. This storage media can contain any digital data, including data unrelated to photographs or videos.
- c. Portable media player: A portable media player (or “MP3 Player” or iPod) is a handheld digital storage device designed primarily to store and play audio, video, or photographic files. However, a portable media player can also store other digital data. Some portable media players can use removable storage media. Removable storage media includes SIM cards, flash memory cards, or miniature hard drives. This removable storage media can also store any digital data. Depending on the model, a portable media player may have the ability to store

very large amounts of electronic data and may offer additional features such as a calendar, contact list, clock, or games.

- d. GPS: A GPS navigation device uses the Global Positioning System to display its current location. It often contains records the locations where it has been. Some GPS navigation devices can give a user driving or walking directions to another location. These devices can contain records of the addresses or locations involved in such navigation. The Global Positioning System (generally abbreviated "GPS") consists of 24 NAVSTAR satellites orbiting the Earth. Each satellite contains an extremely accurate clock. Each satellite repeatedly transmits by radio a mathematical representation of the current time, combined with a special sequence of numbers. These signals are sent by radio, using specifications that are publicly available. A GPS antenna on Earth can receive those signals. When a GPS antenna receives signals from at least four satellites, a computer connected to that antenna can mathematically calculate the antenna's latitude, longitude, and sometimes altitude with a high level of precision.
- e. PDA: A personal digital assistant, or PDA, is a handheld electronic device used for storing data (such as names, addresses, appointments or notes) and utilizing computer programs. Some PDAs also function as wireless communication devices and are used to access the Internet and send and receive e-mail. PDAs usually include a memory card or other removable storage media for storing data and a keyboard and/or touch screen for entering data. Removable storage media include various types of flash memory cards or miniature hard drives. This

removable storage media can store any digital data. Most PDAs run computer software, giving them many of the same capabilities as personal computers. For example, PDA users can work with word-processing documents, spreadsheets, and presentations. PDAs may also include global positioning system (“GPS”) technology for determining the location of the device.

- f. Internet: The Internet is a global network of computers and other electronic devices that communicate with each other. Due to the structure of the Internet, connections between devices on the Internet often cross state and international borders, even when the devices communicating with each other are in the same state.

15. Based on my training and experience, I know that the DEVICE has capabilities that allow it to serve as a wireless telephone, digital camera, portable media player, GPS navigation device, and PDA. In my training and experience, examining data stored on devices of this type can uncover, among other things, evidence that reveals or suggests who possessed or used the device along with evidence of criminal activities.

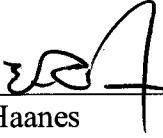
ELECTRONIC STORAGE AND FORENSIC ANALYSIS

16. Based on my knowledge, training, and experience, I know that electronic devices can store information for long periods of time. Similarly, things that have been viewed via the Internet are typically stored for some period of time on the device. This information can sometimes be recovered with forensics tools.

CONCLUSION

17. I submit that this affidavit supports probable cause for a search warrant authorizing the examination of the DEVICE described in Attachment A to seek the items described in Attachment B.

Respectfully submitted,


Erik Haanes
Special Agent
ATF

Subscribed and sworn to before me
on November ~~10~~, 2015:


UNITED STATES MAGISTRATE JUDGE

ATTACHMENT A

The property to be searched is a SAMSUNG, MODEL: SM-G360T1, FCC ID: A3LSMG360T, to include the network carrier SIM card, hereinafter referred to as the "DEVICE." The DEVICE is currently located at the Bureau of Alcohol, Tobacco, Firearms, and Explosives Albuquerque Field Office.

This warrant authorizes the forensic examination of the Device for the purpose of identifying the electronically stored information described in Attachment B.

ATTACHMENT B

1. All records on the DEVICE described in Attachment A that relate to violations of Title 21 U.S.C 841(a)(1) (possession with intent to distribute a controlled substance) and federal firearms violations including:
 - a. Information related to narcotics and firearms possession, trafficking, and/or use;
 - b. lists of customers and related identifying information;
 - c. types, amounts, and prices of drugs trafficked as well as dates, places, and amounts of specific transactions;
 - d. any information related to sources of drugs (including names, addresses, phone numbers, or any other identifying information);
 - e. all bank records, checks, credit card bills, account information, and other financial records.
 - f. Any subscriber information, contact information to include, names, addresses, telephone numbers, email addresses or other identifiers;
 - g. Any call log information, including missed, incoming and outgoing calls and any information associated with those numbers;
 - h. Any photographs, video and audio files;
 - i. Any text messages, email messages, chats, multimedia messages, installed applications or other electronic communications;

- j. Any documents, spreadsheets, calendar, note, password, dictionary or database entries;
 - k. Any Global Positioning Satellite (GPS) entries, Internet Protocol Connections, Location entries to include Cell Tower and WiFi entries;
 - l. Any internet or browser entries or history;
 - m. Any system data or configuration information contained within the device
 - n. Any other user or system files and data, contained on the cellular device itself or an attached peripheral device such as a sim card or micro SD card, which would constitute evidence of violations of law
2. Evidence of user attribution showing who used or owned the DEVICE at the time the things described in this warrant were created, edited, or deleted, such as logs, phonebooks, saved usernames and passwords, documents, and browsing history;

As used above, the terms "records" and "information" include all of the foregoing items of evidence in whatever form and by whatever means they may have been created or stored, including any form of computer or electronic storage (such as flash memory or other media that can store data) and any photographic form.